То:	Board of Supervisors					
From:	David Twa, County Administrator November 11, 2010			8	Contra Costa County	
Date:				CONTACOUNT OF		
Subject: OPE	B - Post Retirement M	edical Benef	fits Trust A	greement		
DECOMMEN	DATION(C).					
Attachment A to	ost Retirement Health B	of assets from	n the Post R	etirement I	ounty of Contra Costa as show Health Benefits Trust to the P Tealth Care Plan Trust;	
2. Adopt Resolu	ntion No. 2010/579 which	ch:				
effective B. Retain 2008; and C. Author	January 1, 2011; and as the County of Contra lorizes the transfer of pla	Costa Post R n assets curre	Retirement Hently held in	Iealth Bene	ent Health Care Plan Trust Agefits Plan, originally effective Post Retirement Health Beneforthe PARS Public Agencies	January 1,
▲ APPROVE		ОТН	ER			
№ RECOMMENI	DATION OF CNTY ADMINISTRA	ΓOR RECO	OMMENDATION	OF BOARD CO	OMMITTEE	
Action of Boar	d On: 12/14/2010	APPROVED	AS RECOMMEN	DED	OTHER	
	Clerks Notes:					
VOTE OF SUI	AYE ABSEN	T 1	NOES ABSTAIN		I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown. ATTESTED: December 14, 2010 David J. Twa, County	
	RECUS	JE			David J. Twa, County Administrator and Clerk	

By: June McHuen, Deputy

of the Board of Supervisors

cc: County Counsel, Treasurer-Tax Collector, Auditor-Controller, County Administrator, Regional Medical Center Finance Director

Contact: Lisa Driscoll, County Finance Director (925) 335-1023

RECOMMENDATION(S): (CONT'D)

- D. Appoints the County's Post Retirement Health Benefits Plan Administrator, or his/her successor or his/her designee as the County's Plan Administrator for the Program; and
- E. Authorizes the Plan Administrator to execute the PARS legal and administrative documents on behalf of the County; to take whatever additional actions are necessary to maintain the County's participation in the Program; to maintain compliance with any relevant regulation issued or as may be issued for the Program; and to take whatever additional actions are required to administer the County's PARS plan(s);
- 3. DIRECT the formation of a Post Retirement Health Benefits Trust Agreement Advisory Body (consisting of current Trustees by County position); and
- 4. DIRECT termination of the Post Retirement Health Benefits Trust Agreement for the County of Contra Costa once all administrative actions are complete.

FISCAL IMPACT:

The result of the recommendations herein, if implemented, will have a positive impact on the County's Other Post Employment Benefit (OPEB) liability and consequently overall fiscal stability and ability to deliver services.

BACKGROUND:

On September 25, 2007 the Board of Supervisors approved the selection of an irrevocable trust structure (Internal Revenue Code Section 115) for OPEB funding for Contra County and directed the County Administrator to return to the Board for approval of trust documents. On January 15, 2008, the Board of Supervisors adopted the County's Post Retirement Medical Benefit Plan (Attachment B) and Post Retirement Health Benefit Trust Agreement for the County of Contra Costa (Attachment C). The Board designated Trustees to execute the Trust Agreement and the Post Retirement Medical Benefit Plan and directed the County Administrator to continue to report back to the Board as major steps in the OPEB strategic plan were met.

The purpose of the OPEB Trust is to hold assets to pay post retirement health benefits and the purpose of the Plan is to provide post retirement health benefits for certain retired employees and their spouses and dependents. The Trust was legally established with the deposit of \$1.00 required by law during fiscal year 2007/08 and the County began partially pre-funding benefits in the amount of \$20 million per year in fiscal year 2008/09. The Trust, which consists of assets contributed by the County, is administered by the financial officials typically responsible for safeguarding the County's assets. The Trustees are the County Administrator, County Finance Director, Treasurer-Tax Collector, Auditor-Controller, and Health Services Finance Director. The Trustees account for all contributions, distributions (none so far), payments, expenses, gains and losses attributable to the County. The Trustees act as fiduciaries in accordance with section 17, article XVI of the California Constitution, and as such the Trustees must discharge their duties with care, skill, prudence and diligence.

The January 15, 2008 report to the Board concluded with the comment, "in terms of an OPEB trust structure, there will most likely be many good alternatives within the next 2-3 years of which the County may want to take advantage. Creation of a County 115 trust would be an interim decision."

There were several reasons why a local independent trust was the correct choice for the County for the last two years. The county had local control and few administrative expenses. Also, because of the relatively small size of the fund, the County invested the funds in the Local Agency Investment Fund. Although very little was earned over the first two years – the total assets of the fund grew – a boast few other plans can make over that same time period. However, with current holdings in excess of \$50 million (as of June 30, 2010, the County's OPEB Trust held \$40.1 million) it is time to move to a third-party administrator to actively invest these important County assets.

The Public Agency Retirement System (PARS) trust presented today is just such an administrator. PARS offers program security, flexibility, scale, and service with an experienced trust administrator operating two multiple-employer OPEB 115 Trusts. PARS is not a broker of services, but a direct trust administrative provider. They team with Union Bank – a strong California Trustee well-known and well-established with the 2nd largest trust division in the State (and federally chartered). Additionally, the Trust has a favorable Private Letter Ruling from the Internal Revenue Service.

PARS offers significant economies of scale as a multiple-employer trust arrangement joining all types of public

agencies together for combined asset growth without risk-sharing. PARS has 27 years of history as trust administrators and 16 years in OPEB trust administration.

PARS fees are very low at 0.10% for assets over \$50 million. Their Trustee/Investment Management Fees are also 0.10% for assets over \$50 million. PARS does not receive any compensation from the investments or any commissions, back-end loads, or any other forms of compensation. Additionally, PARS is able to offer Contra Costa County custom on-line reporting that allows the County to break-out cost centers by Fund.

Currently, the three largest and most qualified firms that provide OPEB trust services for California counties and municipalities are: Public Agency Retirement Services (PARS), California Public Employees Retirement System (CalPERS), and ICMA. Staff reviewed the various plans offered by each firm to determine the best return, security and most flexibility for the County and its investments. Although all firms offer similar plans, only PARS provides the security of a Private Letter Ruling from the IRS that assures participants the tax-exempt status of their investments. In addition, PARS allows the flexibility of the County's participation in selecting the investment strategies for its funds, giving the County control on target yield and level of risk on its investments.

PARS has established a multi-employer irrevocable trust (Attachment D) in compliance with the requirements of Section 115 of the Internal Revenue Code. The design of the trust was done in conjunction with O'Melveny & Myers, one of the nation's largest and most prestigious law firms. As stated above, PARS has also obtained a private letter ruling from the Internal Revenue Service that provides assurance of the trust's legality and protects participants from adverse tax consequences. While it is a multi-employer trust, each employer's contributions benefit only its own employees. There is no sharing of either liability or investment earnings, and separate employer accounts are maintained.

PARS serves as the administrator for the trust. As such, its duties include: 1) establishing the master trust and preparing plan documents; 2) monitoring the receipt of contributions; 3) processing benefit payments; 4) preparing monthly activity reports – in the case of Contra Costa – the reports have been customized to allow tracking by fund; 5) coordinating actuarial studies; 6) responding to auditor requests; and 7) keeping the County informed about legal and regulatory requirements. Any contributions made to the program are held and invested by a trustee, which would be Union Bank.

Union Bank has one of the largest and most respected trust departments in the country. As trustee, its duties include: 1) safeguarding assets for the benefit of retirees; 2) preparing an investment policy based on the parameters set by the County; 3) managing investments; 4) preparing monthly investment reports; and 5) disbursing funds to pay for healthcare premiums.

Union Bank, through its wholly owned subsidiary Highmark Capital Management, offers a number of different investment strategies depending on what rate of return the County expects to earn and the level of risk it is wiling to take. Because these strategies are designed for public entities, they range in level of risk from conservative to moderate. None of the available strategies are aggressive.

In conclusion, the Trustees are recommending that the Board amend the Post Retirement Health Benefits Trust Agreement to provide for transfer of assets from the County's current local trust to the PARS Public Agencies Post-Retirement Health Care Plan Trust, and adopt the attached Resolution.

Resolution 2010/579: 1) authorizes adoption of the new trust agreement; 2) retains the Post Retirement Health Benefits Plan; 3) authorizes transfer of plan assets currently held in the County's local trust and directs the future retiree health benefit contributions be made to the PARS trust; 4) appoints the County's Post Retirement Health Benefits Plan Administrator (Treasurer-Tax Collector) as the County's PARS Plan Administrator; and 5) authorizes the Plan Administrator to execute the legal and administrative documents on behalf of the County and to take whatever additional actions are necessary to maintain the County's participation in the PARS program.

The Trustees are also recommending that the Board direct the formation of a Post Retirement Health Benefits Trust Agreement Advisory Body (consisting of the County Administrator, County Finance Director, Treasurer-Tax Collector, Auditor-Controller, and Health Services Finance Director). The Advisory Body will meet quarterly to oversee the program and keep the Board abreast of these important County assets. And finally, the Trustees are recommending that the Board direct termination of the Post Retirement Health Benefits Trust Agreement once all administrative transfer actions are complete.

CONSEQUENCE OF NEGATIVE ACTION:

County will be unable to transfer monies from the County's Post Retirement Medical Benefit Trust or place other monies into the PARS Post-Retirement Health Care Plan Trust. This may increase the County's financial liabilities

that must be reported in its Financial Statement, which may negatively impact its bond rating and its ability to secure favorable bond financing terms for upcoming capital projects.

CHILDREN'S IMPACT STATEMENT:

None.